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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,112	09/24/2001	Hideki Kinugawa	214039US2X	5982

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EXAMINER

LOUIS JACQUES, JACQUES H

ART UNIT PAPER NUMBER

3661

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/961,112

Applicant(s)

KINUGAWA, HIDEKI

Examiner

Jacques H. Louis-Jacques

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 3661

DETAILED ACTION

*Claim Rejections - 35 USC § 112*

1. Claims 1, 3, 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 9, line 7, it is not clear what “receiv9ng device provided except the construction machine” means.

In claim 3, line 7, “every construction machine” is not clear and lacks clear antecedent basis since there was no previous mention of “a plurality of construction machines” or the like.

Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Imanishi et al [6,349,252].

Art Unit: 3661

Imanishi et al discloses an information device for construction machinery, wherein there is provided an information collection means for collecting operating information regarding operation of a construction machine (abstract, figure 1, columns 8-10, 18-19), a storage means for storing the operating information (abstract, figure 1, columns 8-10) and a transmission controller for transmitting the operating information read from the storage means to a first receiving device provided except [in] the construction machine through a wireless radio, wherein the transmission controlled transmitting the operating information to the first receiving device when receiving a transmission request from outside of the construction machine (columns 8-12, 21). Furthermore, Imanishi et al discloses an operating information accumulating means provided on the operating information control device to accumulate the operating information and store the accumulated operating information (abstract and column 8). Additionally, the first receiving device is provided in a base or remote station external to the construction machine (column 21).

4. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamamoto et al [6,256,594].

Yamamoto et al discloses a machine fault monitoring apparatus and method, wherein operating information of a working or construction machine is monitored, collected and stored. According to Yamamoto et al, the collected operating information is transmitted over a wireless radio to a first receiving device at a remote station (20). Data are transmission upon request or periodically for a predetermined period of time. See abstract. According to Yamamoto et al, the base station is remote to the construction

Art Unit: 3661

machine and the operating information of the construction machine is accumulated. See also the abstract. According further to Yamamoto et al, as set forth in figure 3, data and time of the operating information are provided. In another embodiment, as depicted in figure 8, for example, the operating information is transmitted to a second construction vehicle and the monitoring station (20).

### ***Information Disclosure Statement***

5. The "Related Applications" listed in the information disclosure statement filed on 12/20/01 have been considered by the examiner. However, there is no PTO 1449 filed with the IDS and because the "related applications" are pending applications they will not be printed should the present application is issued as a patent.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6,141,629	Yamamoto et al	Oct. 2000
4,005,392	Akatsuka et al	Jan. 1977
JP 10140616 A	Kurenuma et al	May 1998
JP 10280486 A	Furuno et al	Oct. 1998
JP 10183690 A	Furuno et al	Jul. 1998
JP 10171523 A	Furuno et al	Jun. 1998
JP 10168946 A	Sugawara et al	Jun. 1998

Art Unit: 3661

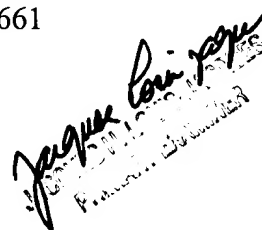
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques H. Louis-Jacques whose telephone number is (703) 305-9757. The examiner can normally be reached on M-Th, 7:30 AM - 4:00 PM (Eastern Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1111.

Jacques H. Louis-Jacques  
Primary Examiner  
Art Unit 3661

/jlj  
October 17, 2002

A handwritten signature in cursive script, reading "Jacques H. Louis-Jacques", is written over a circular official stamp. The stamp contains the text "Primary Examiner" and "Art Unit 3661" around the perimeter, with some additional illegible text in the center.